



**U.S. Citizenship  
and Immigration  
Services**

Non-Precedent Decision of the  
Administrative Appeals Office

In Re: 19976667

Date: FEB. 04, 2022

Appeal of Vermont Service Center Decision

Form I-918, Petition for U Nonimmigrant Status

The Petitioner seeks “U-1” nonimmigrant classification under sections 101(a)(15)(U) and 214(p) of the Immigration and Nationality Act (the Act), 8 U.S.C. §§ 1101(a)(15)(U) and 1184(p). The Director of the Vermont Service Center denied the Form I-918, Petition for U Nonimmigrant Status (U petition), because the Petitioner did not include required initial evidence. The matter is now before us on appeal. We review the questions in this matter de novo. *See Matter of Christo’s Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

**I. LAW**

To establish eligibility for U-1 nonimmigrant classification, petitioners must show that they: have suffered substantial physical or mental abuse as a result of having been the victim of qualifying criminal activity; possess information concerning the qualifying criminal activity; and have been helpful, are being helpful, or are likely to be helpful to law enforcement authorities investigating or prosecuting the qualifying criminal activity. Section 101(a)(15)(U)(i) of the Act. The burden of proof is on a petitioner to demonstrate eligibility by a preponderance of the evidence. Section 291 of the Act, 8 U.S.C. § 1361; 8 C.F.R. § 214.14(c)(4); *Matter of Chawathe*, 25 I&N Dec. 369, 376 (AAO 2010).

As required initial evidence, petitioners must submit a Form I-918 Supplement B, U Nonimmigrant Status Certification (Supplement B), from a law enforcement official certifying the petitioners’ helpfulness in the investigation or prosecution of the qualifying criminal activity perpetrated against them. Section 214(p)(1) of the Act; 8 C.F.R. § 214.14(c)(2)(i). The Supplement B must be signed within the six months immediately preceding the filing of the U petition. 8 C.F.R. 214.14(c)(2)(i). U.S. Citizenship and Immigration Services (USCIS) has sole jurisdiction over U petitions. 8 C.F.R. § 214.14(c)(4). Although petitioners may submit any relevant, credible evidence for the agency to consider, USCIS determines, in its sole discretion, the credibility of and weight given to all the evidence, including the Supplement B. Section 214(p)(4) of the Act; 8 C.F.R. § 214.14(c)(4).

## II. ANALYSIS

The Petitioner, a citizen of Ecuador, filed his U petition in November 2015. In January 2021, the Director denied the U petition because it was not accompanied by a properly executed Supplement B. The Petitioner filed motions to reopen and to reconsider claiming that he submitted a properly executed Supplement B at the time of filing his original U petition. In his motions, he included a copy of a Supplement B signed and certified in June 2015 by the [redacted] Police Department in Minnesota, the original of which he alleged was submitted at filing. He additionally filed a newly executed Supplement B, signed and certified by the [redacted] Police Department in January 2021. The Director dismissed the motions stating that the Petitioner did not establish that the grounds for the denial were overcome. We have reviewed the record in its entirety and conclude that the Petitioner did not file a properly executed Supplement B with his U petition as required by the statute and implementing regulations, and neither his subsequent submissions nor his assertions on appeal cure this deficiency.

On appeal, the Petitioner asserts that the Supplement B must have been submitted with the initial filing of his U petition or the filing would have been rejected by U.S. Citizenship and Immigration Services (USCIS) upon receipt. The Petitioner further asserts that if the agency accepts a U petition for filing without all the required initial evidence, then it should issue a request for evidence (RFE) or notice of intent to deny prior to denying the petition. The Petitioner does not cite to an authoritative source directing the agency to reject U petitions, prior to being accepted for filing, should the petition lack all required initial evidence. The regulation at 8 C.F.R. § 103.2(a)(7)(ii) describes when a benefit will be rejected but does not speak to rejection due to lack of initial evidence. See generally 8 C.F.R. § 103.2(a)(7)(ii). At the time of the filing of the instant U petition, the form instructions stated that a Supplement B “must be filed concurrently” and failure to submit a properly completed Supplement B may result in your petition being denied, not rejected. Form I-918, Instructions for Petition for U Nonimmigrant Status and Supplement A, Petition for Qualifying Family Member of a U-1 Recipient (Jan. 2013 ed.), at 4. The form instructions required rejection only when the U petition was unsigned. Id. at 8. As such, the Petitioner’s U petition was properly accepted and receipted by USCIS.

Further, at the time of the Director’s decision, neither the statute, regulations, nor relevant USCIS policy required the issuance of an RFE where a properly executed Supplement B was not submitted at filing. See 8 C.F.R. § 103.2(b)(8)(ii) (stating that “[i]f all required initial evidence is not submitted with the benefit request or does not demonstrate eligibility, USCIS in its discretion may deny the benefit request for lack of initial evidence or for ineligibility . . . .”); see also USCIS Policy Memorandum PM-HQSCOP 70/13, Denial of Petition for U Nonimmigrant Status for Lack of Required Certification; Revisions to Adjudicator’s Field Manual (AFM), New Chapter 39.1(c)(2)(v) (AFM Update AD10-05) 2 (Jan. 15, 2010) and *Adjudicator’s Field Manual* Chapter 39.1(c)(2)(v), <https://www.uscis.gov/sites/default/files/document/policy-manual-afm/afm39-external.pdf> (stating that, “[i]f the Form I-918 was filed on or after November 1, 2009, the petition should be denied for lack of initial evidence if it does not include Form I-918 Supplement B”).<sup>1</sup> Accordingly, the Director properly exercised discretion and denied the U petition without first issuing an RFE in accordance

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<sup>1</sup> After the decision of the Director, chapter 39.1 of the *Adjudicator’s Field Manual* was partially superseded by 3 USCIS Policy Manual C, <https://www.uscis.gov/policymanual>. As of the date of this decision, the content of *Adjudicator’s Field Manual* Chapter 39.1(c)(2)(v) has not been incorporated into the corresponding chapter within the USCIS Policy Manual entitled “Documentation and Evidence.”

with the current guidance because the Petitioner failed to submit, as required initial evidence, a properly executed Supplement B at filing.

The Petitioner further claims he has cured the grounds of denial because he established that a Supplement B was signed in June 2015 by an authorized official of the [ ] Police Department, and because he has submitted a new Supplement B executed within the last six months. On appeal, the Petitioner includes a letter from the [ ] Police stating their willingness to sign a Supplement B. The letter is undated and does not establish that the Petitioner filed a Supplement B with the initial filing. Moreover, the new Supplement B submitted on motion below does not cure the deficiency, as the Supplement B submitted on motion was not signed within the requisite six-month period prior to the filing of the U petition as required by 8 C.F.R. § 214.14(c)(2)(i).

### III. CONCLUSION

The Petitioner filed his U petition without including, as required initial evidence, a properly executed Supplement B, as section 214(p)(1) of the Act and 8 C.F.R. § 214.14(c)(2)(i) require. Accordingly, the Petitioner has not established his eligibility for U nonimmigrant status under section 101(a)(15)(U) of the Act.<sup>2</sup>

ORDER: The appeal is dismissed.

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<sup>2</sup> This decision is without prejudice to the Petitioner's filing of a new U petition including, as initial required evidence, a properly executed Supplement B.